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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/808,580 | 03/24/2004 | Kiyoshi Fukusaka | KOY-27 | 8187 |
| 20311 | 7590 | 07/28/2005 | EXAMINER | |
| MUSERLIAN, LUCAS AND MERCANTI, LLP 475 PARK AVENUE SOUTH 15TH FLOOR NEW YORK, NY 10016 | | | LETSCHER, GERALDINE | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 1752 | |

DATE MAILED: 07/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|------------------------|---------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/808,580 | FUKUSAKA ET AL. |
| | Examiner | Art Unit |
| | Geraldine V. Letscher | 1752 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 3-24-04, 6-14-04, 7-12-04.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-9 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-9 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1.) Certified copies of the priority documents have been received.
 2.) Certified copies of the priority documents have been received in Application No. _____.
 3.) Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date 7-12-04.

- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____.
 5) Notice of Informal Patent Application (PTO-152)
 6) Other: _____

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-9 are rejected under 35 U.S.C. 102(b) as being anticipated by either Kagawa et al. (European Patent No. 1 079 269 A1) or Kagawa et al. (European Patent No. 1 035 430 A2).

Each of Kagawa (EP'269) and (EP'430) discloses a photothermographic imaging material comprising a support having thereon on at least one side thereof at least one photosensitive silver halide emulsion layer and at least one infrared sensitizing compound inclusive of the instant claims. Please refer to the exemplified compounds; respectively nos. 7, 9, 14, 17, 22, 28, 40, 43-47, 48-50 and nos. 43, 46, 47, 49.

3. Claims 1-9 are rejected under 35 U.S.C. 102(b) as being anticipated by either Kimura et al. (U.S. Patent No. 6,413,711) or Kagawa et al. (U.S. Patent No. 6,492,102).

Each of Kimura et al. and Kagawa et al. discloses a photothermographic imaging material comprising a support having thereon on at least one side thereof at least one

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photosensitive silver halide emulsion layer and at least one infrared sensitizing compound inclusive of the instant claims. Please refer to the exemplified compounds; respectively nos. 5-10, 14-17, 19-20, 25-31, 36, 38-41 and nos. 7, 9, 14, 17, 22, 28, 43-48.

4. Claims 1-9 are rejected under 35 U.S.C. 102(e) as being anticipated by Kagawa et al. (U.S. Patent No. 6,677,113).

Kagawa et al. discloses a photothermographic imaging material comprising a support having thereon on at least one side thereof at least one photosensitive silver halide emulsion layer and at least one infrared sensitizing compound inclusive of the instant claims; refer to exemplified compounds S-46, S-47, S-49.

The applied reference has a common assignee/inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

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5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Geraldine V. Letscher whose telephone number is (571) 272-1334. The examiner can normally be reached on 7:30am to 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cynthia Kelly can be reached on (571) 272-1526. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



GERALDINE LETSCHER
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GROUP 1100